

---

# A BILL FOR AN ACT

RELATING TO PROPERTY INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that widespread  
2 underinsurance slows community disaster recovery and increases  
3 the cost of aid provided by nonprofit and governmental entities.  
4 The legislature further finds that the 2023 Maui wildfires  
5 revealed that many homeowners were severely underinsured,  
6 leaving many affected residents unable to rebuild and forcing  
7 them into debt or permanent displacement.

8           The legislature recognizes that the State faces rapidly  
9 escalating rebuilding costs due to its geographic isolation and  
10 reliance on imported materials, high labor costs, limited  
11 workforce availability, and lengthy permitting and rebuilding  
12 timelines. These factors cause replacement costs to rise  
13 quickly, often outpacing policy limits if coverage is not  
14 reviewed regularly.

15           The legislature notes that most homeowners do not receive  
16 annual updates about whether their coverage matches the current  
17 cost of rebuilding. Homeowners often discover that they are



1 underinsured only after a catastrophic loss. This lack of  
2 transparency leaves policyholders vulnerable and less likely to  
3 fully recover following a disaster.

4 The legislature finds that other states offer models for  
5 property insurance reform. Colorado requires insurers to  
6 disclose construction cost estimates at each renewal; to offer  
7 enhanced coverage, such as extended replacement cost and law and  
8 ordinance coverage; and to consider homeowner-provided  
9 estimates. California requires insurers providing replacement  
10 cost estimates to update their data annually and to include in  
11 the estimates detailed cost components such as labor, permits,  
12 demolition, and debris removal.

13 The legislature finds that the State does not require  
14 annual replacement cost disclosures or offers to purchase full  
15 replacement coverage. Without these protections, homeowners may  
16 unknowingly remain underinsured, post-disaster rebuilding delays  
17 may increase, and nonprofit and government disaster relief  
18 efforts may face higher costs and longer timelines.

19 Accordingly, the purpose of this Act is to support faster  
20 and more resilient community recovery after disasters.  
21 Specifically, this Act requires insurers to:



- 1 (1) Give policyholders accurate, current information about
- 2 dwelling rebuilding costs; and
- 3 (2) Annually disclose to policyholders whether rebuilding
- 4 costs are fully covered, and if not, to offer full
- 5 coverage.

6 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
7 amended by adding a new part to article 10E to be appropriately  
8 designated and to read as follows:

9 **"PART . REPLACEMENT COST DISCLOSURE AND INSURANCE TO VALUE**

10 **§431:10E-A Definitions.** As used in this part:

11 "Dwelling coverage limit" means the maximum amount the  
12 homeowners insurer will pay to repair, rebuild, or replace the  
13 home's physical structure and attached items after a covered  
14 loss.

15 "Homeowners insurance" has the same meaning as defined in  
16 section 431:14-110.8.

17 "Homeowners insurer" has the same meaning as defined in  
18 section 431:14-110.8.

19 "Policyholder" means the person named as the insured under  
20 the homeowners insurance.



1 "Replacement cost" means the amount necessary to repair,  
2 rebuild, or replace damaged property with materials of like kind  
3 and quality, without deduction for depreciation.

4 **§431:10E-B Annual disclosure requirements.** (a) At least  
5 once every twelve months and coinciding with policy renewal,  
6 each homeowners insurer shall provide the policyholder with a  
7 written replacement cost estimate prepared in accordance with  
8 section 431:10E-D that clearly states whether the current  
9 dwelling coverage limit will cover the replacement cost.

10 (b) The disclosure shall be titled "Replacement Cost  
11 Disclosure" and shall be delivered:

- 12 (1) In paper or electronic format; and  
13 (2) Separately from the policy renewal package.

14 **§431:10E-C Offer to insure to replacement cost.** (a) If  
15 the dwelling coverage limit is less than the replacement cost,  
16 the homeowners insurer shall offer the policyholder the option  
17 to purchase additional coverage under the homeowners insurance  
18 to increase the dwelling coverage limit to equal the replacement  
19 cost.

20 (b) The offer shall:

- 21 (1) Include the premium for the increased coverage;



1 (2) Remain open for thirty days; and

2 (3) Be renewed annually.

3 **§431:10E-D Requirements for replacement cost estimates.**

4 Any replacement cost estimate provided under this part shall:

5 (1) Be specific to the insured property;

6 (2) Be based on current local labor and material costs;

7 (3) Include all components of the replacement cost,

8 including the cost of:

9 (A) Labor and materials;

10 (B) Overhead and profit;

11 (C) Demolition and debris removal;

12 (D) Architectural and engineering fees;

13 (E) Permits and inspections; and

14 (F) Other necessary costs;

15 (4) Take into consideration any estimate from a contractor

16 or an architect submitted by the policyholder; and

17 (5) Be updated annually to reflect current costs.

18 **§431:10E-E Recordkeeping and transparency.** For at least

19 five years after the homeowners insurance term has expired,

20 homeowners insurers shall maintain documentation that supports



1 each replacement cost estimate and notes the policyholder's  
2 decision to accept or decline replacement cost coverage.

3 **§431:10E-F Enforcement.** Failure to comply with this part  
4 shall constitute an unfair or deceptive act or practice in the  
5 business of insurance under section 431:13-103."

6 SECTION 3. Section 431:13-103, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) The following are defined as unfair methods of  
9 competition and unfair or deceptive acts or practices in the  
10 business of insurance:

11 (1) Misrepresentations and false advertising of insurance  
12 policies. Making, issuing, circulating, or causing to  
13 be made, issued, or circulated, any estimate,  
14 illustration, circular, statement, sales presentation,  
15 omission, or comparison that:

16 (A) Misrepresents the benefits, advantages,  
17 conditions, or terms of any insurance policy;

18 (B) Misrepresents the dividends or share of the  
19 surplus to be received on any insurance policy;



- 1 (C) Makes any false or misleading statement as to the
- 2 dividends or share of surplus previously paid on
- 3 any insurance policy;
- 4 (D) Is misleading or is a misrepresentation as to the
- 5 financial condition of any insurer, or as to the
- 6 legal reserve system upon which any life insurer
- 7 operates;
- 8 (E) Uses any name or title of any insurance policy or
- 9 class of insurance policies misrepresenting the
- 10 true nature thereof;
- 11 (F) Is a misrepresentation for the purpose of
- 12 inducing or tending to induce the lapse,
- 13 forfeiture, exchange, conversion, or surrender of
- 14 any insurance policy;
- 15 (G) Is a misrepresentation for the purpose of
- 16 effecting a pledge or assignment of or effecting
- 17 a loan against any insurance policy;
- 18 (H) Misrepresents any insurance policy as being
- 19 shares of stock;
- 20 (I) Publishes or advertises the assets of any insurer
- 21 without publishing or advertising with equal



1                   conspicuousness the liabilities of the insurer,  
2                   both as shown by its last annual statement; or  
3           (J) Publishes or advertises the capital of any  
4                   insurer without stating specifically the amount  
5                   of paid-in and subscribed capital;  
6           (2) False information and advertising generally. Making,  
7                   publishing, disseminating, circulating, or placing  
8                   before the public, or causing, directly or indirectly,  
9                   to be made, published, disseminated, circulated, or  
10                  placed before the public, in a newspaper, magazine, or  
11                  other publication, or in the form of a notice,  
12                  circular, pamphlet, letter, or poster, or over any  
13                  radio or television station, or in any other way, an  
14                  advertisement, announcement, or statement containing  
15                  any assertion, representation, or statement with  
16                  respect to the business of insurance or with respect  
17                  to any person in the conduct of the person's insurance  
18                  business, which is untrue, deceptive, or misleading;  
19           (3) Defamation. Making, publishing, disseminating, or  
20                  circulating, directly or indirectly, or aiding,  
21                  abetting, or encouraging the making, publishing,



1 disseminating, or circulating of any oral or written  
2 statement or any pamphlet, circular, article, or  
3 literature [~~which~~] that is false, or maliciously  
4 critical of or derogatory to the financial condition  
5 of an insurer, and [~~which~~] that is calculated to  
6 injure any person engaged in the business of  
7 insurance;

8 (4) Boycott, coercion, and intimidation.

9 (A) Entering into any agreement to commit, or by any  
10 action committing, any act of boycott, coercion,  
11 or intimidation resulting in or tending to result  
12 in unreasonable restraint of, or monopoly in, the  
13 business of insurance; or

14 (B) Entering into any agreement on the condition,  
15 agreement, or understanding that a policy will  
16 not be issued or renewed unless the prospective  
17 insured contracts for another class or an  
18 additional policy of the same class of insurance  
19 with the same insurer;

20 (5) False financial statements.



1 (A) Knowingly filing with any supervisory or other  
2 public official, or knowingly making, publishing,  
3 disseminating, circulating, or delivering to any  
4 person, or placing before the public, or  
5 knowingly causing, directly or indirectly, to be  
6 made, published, disseminated, circulated,  
7 delivered to any person, or placed before the  
8 public, any false statement of a material fact as  
9 to the financial condition of an insurer; or  
10 (B) Knowingly making any false entry of a material  
11 fact in any book, report, or statement of any  
12 insurer with intent to deceive any agent or  
13 examiner lawfully appointed to examine into its  
14 condition or into any of its affairs, or any  
15 public official to whom the insurer is required  
16 by law to report, or who has authority by law to  
17 examine into its condition or into any of its  
18 affairs, or, with like intent, knowingly omitting  
19 to make a true entry of any material fact  
20 pertaining to the business of the insurer in any  
21 book, report, or statement of the insurer;



1 (6) Stock operations and advisory board contracts.

2 Issuing or delivering or permitting agents, officers,  
3 or employees to issue or deliver, agency company stock  
4 or other capital stock, or benefit certificates or  
5 shares in any common-law corporation, or securities or  
6 any special or advisory board contracts or other  
7 contracts of any kind promising returns and profits as  
8 an inducement to insurance;

9 (7) Unfair discrimination.

10 (A) Making or permitting any unfair discrimination  
11 between individuals of the same class and equal  
12 expectation of life in the rates charged for any  
13 policy of life insurance or annuity contract or  
14 in the dividends or other benefits payable  
15 thereon, or in any other of the terms and  
16 conditions of the contract;

17 (B) Making or permitting any unfair discrimination in  
18 favor of particular individuals or persons, or  
19 between insureds or subjects of insurance having  
20 substantially like insuring, risk, and exposure  
21 factors, or expense elements, in the terms or



1 conditions of any insurance contract, or in the  
2 rate or amount of premium charge therefor, or in  
3 the benefits payable or in any other rights or  
4 privilege accruing thereunder;

5 (C) Making or permitting any unfair discrimination  
6 between individuals or risks of the same class  
7 and of essentially the same hazards by refusing  
8 to issue, refusing to renew, canceling, or  
9 limiting the amount of insurance coverage on a  
10 property or casualty risk because of the  
11 geographic location of the risk, unless:

12 (i) The refusal, cancellation, or limitation is  
13 for a business purpose which is not a mere  
14 pretext for unfair discrimination; or

15 (ii) The refusal, cancellation, or limitation is  
16 required by law or regulatory mandate;

17 (D) Making or permitting any unfair discrimination  
18 between individuals or risks of the same class  
19 and of essentially the same hazards by refusing  
20 to issue, refusing to renew, canceling, or  
21 limiting the amount of insurance coverage on a



1 residential property risk, or the personal  
2 property contained therein, because of the age of  
3 the residential property, unless:

4 (i) The refusal, cancellation, or limitation is  
5 for a business purpose [~~which~~] that is not a  
6 mere pretext for unfair discrimination; or

7 (ii) The refusal, cancellation, or limitation is  
8 required by law or regulatory mandate;

9 (E) Refusing to insure, refusing to continue to  
10 insure, or limiting the amount of coverage  
11 available to an individual because of the sex or  
12 marital status of the individual; however,  
13 nothing in this subsection shall prohibit an  
14 insurer from taking marital status into account  
15 for the purpose of defining persons eligible for  
16 dependent benefits;

17 (F) Terminating or modifying coverage, or refusing to  
18 issue or renew any property or casualty policy or  
19 contract of insurance solely because the  
20 applicant or insured or any employee of either is  
21 mentally or physically impaired; provided that



1 this subparagraph shall not apply to accident and  
2 health or sickness insurance sold by a casualty  
3 insurer; provided further that this subparagraph  
4 shall not be interpreted to modify any other  
5 provision of law relating to the termination,  
6 modification, issuance, or renewal of any  
7 insurance policy or contract;

8 (G) Refusing to insure, refusing to continue to  
9 insure, or limiting the amount of coverage  
10 available to an individual based solely upon the  
11 individual's having taken a human  
12 immunodeficiency virus (HIV) test prior to  
13 applying for insurance; or

14 (H) Refusing to insure, refusing to continue to  
15 insure, or limiting the amount of coverage  
16 available to an individual because the individual  
17 refuses to consent to the release of information  
18 [~~which~~] that is confidential as provided in  
19 section 325-101; provided that nothing in this  
20 subparagraph shall prohibit an insurer from  
21 obtaining and using the results of a test



1           satisfying the requirements of the commissioner,  
2           which was taken with the consent of an applicant  
3           for insurance; provided further that any  
4           applicant for insurance who is tested for HIV  
5           infection shall be afforded the opportunity to  
6           obtain the test results, within a reasonable time  
7           after being tested, and that the confidentiality  
8           of the test results shall be maintained as  
9           provided by section 325-101;

10       (8) Rebates. Except as otherwise expressly provided by  
11       law:

12       (A) Knowingly permitting or offering to make or  
13       making any contract of insurance, or agreement as  
14       to the contract other than as plainly expressed  
15       in the contract, or paying or allowing, or giving  
16       or offering to pay, allow, or give, directly or  
17       indirectly, as inducement to the insurance, any  
18       rebate of premiums payable on the contract, or  
19       any special favor or advantage in the dividends  
20       or other benefits, or any valuable consideration  
21       or inducement not specified in the contract; or



1 (B) Giving, selling, or purchasing, or offering to  
2 give, sell, or purchase as inducement to the  
3 insurance or in connection therewith, any stocks,  
4 bonds, or other securities of any insurance  
5 company or other corporation, association, or  
6 partnership, or any dividends or profits accrued  
7 thereon, or anything of value not specified in  
8 the contract;

9 (9) Nothing in paragraph (7) or (8) shall be construed as  
10 including within the definition of discrimination or  
11 rebates any of the following practices:

12 (A) In the case of any life insurance policy or  
13 annuity contract, paying bonuses to policyholders  
14 or otherwise abating their premiums in whole or  
15 in part out of surplus accumulated from  
16 nonparticipating insurance; provided that any  
17 bonus or abatement of premiums shall be fair and  
18 equitable to policyholders and in the best  
19 interests of the insurer and its policyholders;

20 (B) In the case of life insurance policies issued on  
21 the industrial debit plan, making allowance to



1 policyholders who have continuously for a  
2 specified period made premium payments directly  
3 to an office of the insurer in an amount [~~which~~]  
4 that fairly represents the saving in collection  
5 expense;

6 (C) [~~Readjustment of~~] Readjusting the rate of premium  
7 for a group insurance policy based on the loss or  
8 expense experience thereunder, at the end of the  
9 first or any subsequent policy year of insurance  
10 thereunder, which may be made retroactive only  
11 for the policy year;

12 (D) In the case of any contract of insurance, [~~the~~  
13 ~~distribution of~~] distributing savings, earnings,  
14 or surplus equitably among a class of  
15 policyholders, all in accordance with this  
16 article; and

17 (E) [A] Offering a reward under a wellness program  
18 established under a health care plan that favors  
19 an individual if the wellness program meets the  
20 following requirements:



- 1           (i) The wellness program is reasonably designed  
2           to promote health or prevent disease;
- 3           (ii) An individual has an opportunity to qualify  
4           for the reward at least once a year;
- 5           (iii) The reward is available for all similarly  
6           situated individuals;
- 7           (iv) The wellness program has alternative  
8           standards for individuals who are unable to  
9           obtain the reward because of a health  
10          factor;
- 11          (v) Alternative standards are available for an  
12          individual who is unable to participate in a  
13          reward program because of a health  
14          condition;
- 15          (vi) The insurer provides information explaining  
16          the standard for achieving the reward and  
17          discloses the alternative standards; and
- 18          (vii) The total rewards for all wellness programs  
19          under the health care plan do not exceed  
20          twenty per cent of the cost of coverage;



- 1       (10) Refusing to provide or limiting coverage available to  
2            an individual because the individual may have a  
3            third-party claim for recovery of damages; provided  
4            that:
- 5            (A) Where damages are recovered by judgment or  
6            settlement of a third-party claim, reimbursement  
7            of past benefits paid shall be allowed pursuant  
8            to section 663-10;
- 9            (B) This paragraph shall not apply to entities  
10           licensed under chapter 386 or 431:10C; and
- 11           (C) For entities licensed under chapter 432 or 432D:
- 12            (i) It shall not be a violation of this section  
13            to refuse to provide or limit coverage  
14            available to an individual because the  
15            entity determines that the individual  
16            reasonably appears to have coverage  
17            available under chapter 386 or 431:10C; and
- 18            (ii) Payment of claims to an individual who may  
19            have a third-party claim for recovery of  
20            damages may be conditioned upon the  
21            individual first signing and submitting to



1           the entity documents to secure the lien and  
2           reimbursement rights of the entity and  
3           providing information reasonably related to  
4           the entity's investigation of its liability  
5           for coverage.

6           Any individual who knows or reasonably should  
7           know that the individual may have a third-party  
8           claim for recovery of damages and who fails to  
9           provide timely notice of the potential claim to  
10          the entity, shall be deemed to have waived the  
11          prohibition of this paragraph against refusal or  
12          limitation of coverage. "Third-party claim" for  
13          purposes of this paragraph means any tort claim  
14          for monetary recovery or damages that the  
15          individual has against any person, entity, or  
16          insurer, other than the entity licensed under  
17          chapter 432 or 432D;

18          (11) Unfair claim settlement practices. Committing or  
19          performing with such frequency as to indicate a  
20          general business practice any of the following:



- 1 (A) Misrepresenting pertinent facts or insurance
- 2 policy provisions relating to coverages at issue;
- 3 (B) With respect to claims arising under its
- 4 policies, failing to respond with reasonable
- 5 promptness, in no case more than fifteen working
- 6 days, to communications received from:
  - 7 (i) The insurer's policyholder;
  - 8 (ii) Any other persons, including the
  - 9 commissioner; or
  - 10 (iii) The insurer of a person involved in an
  - 11 incident in which the insurer's policyholder
  - 12 is also involved.
- 13 The response shall be more than an acknowledgment
- 14 that such person's communication has been
- 15 received and shall adequately address the
- 16 concerns stated in the communication;
- 17 (C) Failing to adopt and implement reasonable
- 18 standards for the prompt investigation of claims
- 19 arising under insurance policies;



- 1 (D) Refusing to pay claims without conducting a  
2 reasonable investigation based upon all available  
3 information;
- 4 (E) Failing to affirm or deny coverage of claims  
5 within a reasonable time after proof of loss  
6 statements have been completed;
- 7 (F) Failing to offer payment within thirty calendar  
8 days of affirmation of liability, if the amount  
9 of the claim has been determined and is not in  
10 dispute;
- 11 (G) Failing to provide the insured, or when  
12 applicable the insured's beneficiary, with a  
13 reasonable written explanation for any delay, on  
14 every claim remaining unresolved for thirty  
15 calendar days from the date it was reported;
- 16 (H) Not attempting in good faith to effectuate  
17 prompt, fair, and equitable settlements of claims  
18 in which liability has become reasonably clear;
- 19 (I) Compelling insureds to institute litigation to  
20 recover amounts due under an insurance policy by  
21 offering substantially less than the amounts



- 1 ultimately recovered in actions brought by the
- 2 insureds;
- 3 (J) Attempting to settle a claim for less than the
- 4 amount to which a reasonable person would have
- 5 believed the person was entitled by reference to
- 6 written or printed advertising material
- 7 accompanying or made part of an application;
- 8 (K) Attempting to settle claims on the basis of an
- 9 application that was altered without notice,
- 10 knowledge, or consent of the insured;
- 11 (L) Making claims payments to insureds or
- 12 beneficiaries not accompanied by a statement
- 13 setting forth the coverage under which the
- 14 payments are being made;
- 15 (M) Making known to insureds or claimants a policy of
- 16 appealing from arbitration awards in favor of
- 17 insureds or claimants for the purpose of
- 18 compelling them to accept settlements or
- 19 compromises less than the amount awarded in
- 20 arbitration;



- 1 (N) Delaying the investigation or payment of claims  
2 by requiring an insured, claimant, or the  
3 physician or advanced practice registered nurse  
4 of either to submit a preliminary claim report  
5 and then requiring the subsequent submission of  
6 formal proof of loss forms, if both [~~of which~~]  
7 submissions contain substantially the same  
8 information;
- 9 (O) Failing to promptly settle claims, where  
10 liability has become reasonably clear, under one  
11 portion of the insurance policy coverage to  
12 influence settlements under other portions of the  
13 insurance policy coverage;
- 14 (P) Failing to promptly provide a reasonable  
15 explanation of the basis in the insurance policy  
16 in relation to the facts or applicable law for  
17 denial of a claim or for the offer of a  
18 compromise settlement; and
- 19 (Q) Indicating to the insured on any payment draft,  
20 check, or in any accompanying letter that the  
21 payment is "final" or is "a release" of any claim



1 if additional benefits relating to the claim are  
2 probable under coverages afforded by the policy;  
3 unless the policy limit has been paid or there is  
4 a bona fide dispute over either the coverage or  
5 the amount payable under the policy;

6 (12) Failure to maintain complaint handling procedures.

7 [~~Failure of any insurer~~] Failing to maintain a  
8 complete record of all the complaints [~~that it has~~]  
9 received since the date of [~~its~~] the last examination  
10 under section 431:2-302. This record shall indicate  
11 the total number of complaints, their classification  
12 by line of insurance, the nature of each complaint,  
13 the disposition of the complaints, and the time it  
14 took to process each complaint. For purposes of this  
15 section, "complaint" means any written communication  
16 primarily expressing a grievance;

17 (13) Misrepresentation in insurance applications. Making  
18 false or fraudulent statements or representations on  
19 or relative to an application for an insurance policy,  
20 for the purpose of obtaining a fee, commission, money,



- 1 or other benefit from any insurer, producer, or  
2 individual; ~~and~~
- 3 (14) Failure to obtain information. [~~Failure~~] In the case  
4 of any insurance producer, or an insurer where no  
5 producer is involved, failing to comply with section  
6 431:10D-623(a), (b), or (c) by making reasonable  
7 efforts to obtain information about a consumer before  
8 making a recommendation to the consumer to purchase or  
9 exchange an annuity[-]; and
- 10 (15) Failure to disclose replacement cost or offer to  
11 insure to value. In the case of any homeowners  
12 insurer, failing to comply with part of  
13 article 10E of chapter 431."

14 SECTION 4. In codifying the new sections added by  
15 section 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

18 SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Homeowners Insurance; Underinsurance; Replacement Cost Value;  
Mandatory Disclosure; Offer to Insure to Value; Record Keeping

**Description:**

Requires homeowners insurers to provide policyholders with annual disclosures of replacement cost value and the sufficiency of policyholder's coverage. Requires homeowners insurers to offer annually to policyholders increased coverage if the property is underinsured. Requires homeowners insurers to maintain records of disclosures and offers for five years. Provides that failure to comply constitutes an unfair or deceptive act or practice in the business of insurance. Effective 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

